

Course Outline

COURSE: LAWS 4605A – Topics in International Law:
International Refugee Law and Beyond

TERM: Winter 2011-12

PREREQUISITES: LAWS 3603 or LAWS 3603 [1.0] (no longer offered)

CLASS: Day & Time: Tuesdays 11:35-14:25
Room: Please check with Carleton Central for current room location

INSTRUCTOR: Anna Purkey
(CONTRACT)

CONTACT: Office: B442 Loeb (contract instructors' office)
Office Hrs: By appointment
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After the term begins, please direct all email contact through WebCT email

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **March 7, 2012 for Winter Exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

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PLEASE NOTE: This course will be supported by the WebCT Course Management System. All correspondence with the professor during the term should be carried out through the WebCT e-mail system ONLY. You must activate your WebCT account by going to the following page: webct.carleton.ca and following the links from the "Student Resources" site on the left hand side.

Students will be fully responsible for reading and responding appropriately to all information distributed through the WebCT Course Page. Information provided on this page will be considered to have been provided to all registered student within 24 hours of posting.

COURSE DESCRIPTION

Whether it is a story about a refugee family receiving a warm welcome from the community, claims that "bogus" refugees are flooding our borders, pictures of boats overflowing with migrants capsizing on their way to Europe or pleas for donations issued by relief agencies, barely a day goes by without some discussion of migration in our news. Although human migration is as old as human society, there are few issues that are as current, universal and multifaceted. There are also few issues that are as controversial. The debates surrounding migration involve discussions concerning a wide range of topics: state sovereignty, international obligations, human rights, individual versus group rights, economic interest, international conflict, state security, labour law, distributive justice, and the list goes on.

Although human movement is an important part of human society, not all movements are voluntary. Each year hundreds of thousands of people are forced from their homes. Without the protection of their state or community, these individuals often find themselves in particularly vulnerable situations where their human rights are frequently threatened or violated outright. This course looks at the body of international law that governs forced migration and that protects these migrants.

While a substantial portion of this course will focus on international refugee law, it is increasingly difficult in today's world to draw a clear line between who is or is not a refugee. In addition to refugee-producing conflict and persecution, environmental disasters, catastrophic development programs and devastating economic conditions all contribute to human migration. As such, it is necessary to look beyond international refugee law to the law of forced migration generally.

This course will introduce students to the basic principles of international refugee law, including the refugee definition, determination and non-refoulement, as well as some of the alternative sources of protection for forced migrants, including laws governing internally displaced persons, stateless persons and human trafficking and smuggling. This course emphasizes the ongoing importance of international refugee law and the law governing forced migration, and the political and social values that underlie the regulation of human movement. Specifically, this class will familiarize students with the international legal and policy frameworks surrounding forced migration and introduce them to several of the current debates in this area of study. Students are encouraged to think critically about the principles that they have learned and how they apply in the world today.

This course is an upper-year seminar. Accordingly, students are expected to have read the materials attentively prior to class, to engage fully with these materials and to participate in an active and informed manner in class. The course will combine a modified lecture format with small group and class discussions.

REQUIRED TEXTS

LAWS 4605A Coursepack

In deference to student comments received previously, only readings that cannot be found online have been included in the coursepack. **Links to the required readings that can be found online will be posted on WebCT.** You are responsible for reading both the coursepack and online materials as they are compulsory and equally important.

SUPPLEMENTARY TEXTS

Links to additional resources will be posted on WebCT.

EVALUATION

(All components must be completed in order to get a passing grade)

Class participation: 10 %

As this is a seminar class, the participation mark is based on the quality and quantity of contributions to class discussions. Attendance is a prerequisite for participation. Attendance will be taken at the beginning of each class. Short in-class assignments may also count towards class participation.

Class presentation on informal debate topic: 20 %

Students will be required to choose one of the topics proposed for informal debate and, in small groups of 2 or 3, to present their positions in class in a simplified mock-debate intended to encourage discussion of controversial issues. Students will also be required to hand in their speaking notes at the end of the debate. Although this assignment is a group exercise, students will be marked individually for their contribution to the debate.

Midterm final paper topic and outline: 10 %

Students are required to submit a brief proposal for their term paper in class on February 14th. The

proposal should include a preliminary summary of the thesis and an outline of the main arguments/discussion points as well as a tentative bibliography. Final papers will not be accepted if the midterm outline has not received prior approval.

Current affairs assignment: 10 %

This assignment involves submitting a short essay (4-5 pages double-spaced) that examines a current affairs story and relates it to the material being covered in a specific class of this course. Essays should demonstrate the student's ability to effectively summarize a complex situation, to recognize forced migration issues in current affairs and to relate a factual situation to the theory being addressed in class.

Final paper: 50 %

Students must submit an original term paper of 15-20 pages (excluding bibliography) in class on or before April 3rd. **Late term papers will not be accepted without a documented emergency.** Topics and guidelines will be discussed in class within the first few weeks of the term.

More detailed instructions for assignments will be provided in class.

NOTE ON ASSIGNMENTS:

All assignments must be typewritten, double-spaced, 12pt Times New Roman font with standard 1 inch margins. All assignments must indicate the course code and the student's name and student number. Title pages and bibliographies are not counted in calculating page length for an assignment. Assignments must also include proper footnoting. Students must use the **Legal Style Sheet** available on the Department of Law website.

Plagiarism will not be tolerated. Please refer to the Department of Law Policy and Procedure Statement. (<http://www2.carleton.ca/law/ccms/wp-content/ccms-files/Policy-July-10.pdf>)

All assignments must be handed in to the instructor **in class** on the due date. Assignments that are not handed in at the beginning of the class period, even if handed in later in the day, **are considered to be late**. Assignments will not be accepted under the door of the sessional instructors' office. If students cannot attend class on the date an assignment is due, the assignment may be submitted by e-mail (through WebCT) prior to the beginning of class.

Students must keep a copy of any assignments submitted for marking.

LATE ASSIGNMENTS:

(Note: This late assignment policy does not apply to the final paper which must be submitted on time unless there is a documented emergency.)

Requests for an extension must be made to the instructor prior to the due date and will only be considered if there is a serious reason (requests must be accompanied by supporting documentation).

A deduction of 5% per day (including weekends) will be imposed on late assignments. Late assignments must be submitted in hard copy (stamped by the administration), as well as sent electronically to the instructor. Assignments must be submitted within 7 days of the due date. If they are submitted after 7 days they will receive a grade of 0% (F).

TENTATIVE SCHEDULE AND READINGS (subject to modification – check WebCT)

<p>Week 1 – January 10th</p> <p>Introduction</p>	<ul style="list-style-type: none"> - What is forced migration? - What does it mean to be “forced”? - Historical Trends
<p>Week 2 – January 17th</p> <p>Why do people move?</p>	<ul style="list-style-type: none"> - Reasons for Migration - Fleeing war and violence - Development-induced migration - Environmental migration <ul style="list-style-type: none"> ○ Jonathon W. Moses, “Chapter 4: The Moral Argument” from <i>International Migration: Globalization’s Last Frontier</i> (Black Point, Nova Scotia: Fernwood Publishing Ltd., 2006), pp. 57-77, 221-224. ○ Marie Stavropoulou, <i>Forced Migration Review</i>, 31 – <i>Climate Change and Displacement – Drowned in Definitions?</i>, (pp. 11-12) http://www.fmreview.org/FMRpdfs/FMR31/11-12.pdf ○ <i>Abuse, Poverty and Migration – Expanding protection to migrants from Burma</i>, Karen Human Rights Group (Report briefier June 2009) (Look at full report if possible) http://www.khrg.org/khrg2009/khrg0903_briefer.pdf http://www.khrg.org/khrg2009/khrg0903.html
International Refugee Law	
<p>Week 3 – January 24th</p> <p>Refugee Definition and Determination in International Law</p>	<ul style="list-style-type: none"> - Criteria for granting protection: alienage, well-founded fear, persecution, grounds of persecution <ul style="list-style-type: none"> ○ <i>1951 Convention and 1967 Protocol relating to the Status of Refugees</i> http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf ○ <i>Cartagena Declaration on Refugees</i> – http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3ae6b36ec ○ <i>Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees</i> – http://www.unhcr.org/publ/PUBL/3d58e13b4.pdf
<p>Week 4 – January 31th</p> <p>Refugee Definition and Determination in International Law (cont'd)</p>	<ul style="list-style-type: none"> - Internal protection alternative, exclusion from convention refugee status, cessation of protection - Content of refugee protection under the <i>1951 Convention</i> and the <i>1967 Protocol</i> <ul style="list-style-type: none"> ○ <i>1951 Convention and 1967 Protocol relating to the Status of Refugees</i> http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf ○ <i>Cartagena Declaration on Refugees</i> – http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=3ae6b36ec ○ <i>Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees</i> – http://www.unhcr.org/publ/PUBL/3d58e13b4.pdf
<p>Week 5 – February 7st</p> <p>Non-Refoulement</p>	<ul style="list-style-type: none"> - Status and content of the principle of non-refoulement - Interdiction, safe third country, country of first asylum <ul style="list-style-type: none"> ○ Guy S. Goodwin-Gill and J. McAdam, <i>The Refugee in International</i>

	<p><i>Law – Part 2 Asylum – Chapter 5. Non-Refoulement in the 1951 Refugee Convention</i>, pp. 201-267 http://www.en.refugeelawreader.org/index.php?option=com_content&view=article&id=129&Itemid=100</p> <ul style="list-style-type: none"> ○ <i>Forced Back: International Refugee Protection in Theory and Practice</i> http://repository.forcedmigration.org/show_metadata.jsp?pid=fmo:3133
International Protection Regime	
<p>Week 6 – February 14th</p> <p>Human Rights and Other Forms of International Protection</p>	<ul style="list-style-type: none"> - Relationship between international refugee law and international human rights law - The role of international human rights law in forced migration - Other forms of international protection: complementary protection, temporary protection, etc. - Asylum <ul style="list-style-type: none"> ○ Alice Edwards, “Human Rights, Refugees, and The Right ‘To Enjoy’ Asylum”, (2005) 17 Int’l J. Refugee L. 293, pp. 293-330. ○ Ruma Mandal, “Protection Mechanisms Outside of the 1951 Convention (“Complementary Protection”)”, (June 2005) UNHCR Legal and Protection Policy Research Series, http://www.unhcr.org/refworld/pdfid/435e198d4.pdf (Excerpts)
<p>Week 7 – February 21th</p> <p>Winter Break: No Class</p>	<ul style="list-style-type: none"> - Work on your paper and your debate!
<p>Week 8 – February 28nd</p> <p>International Institutions and humanitarian intervention</p>	<ul style="list-style-type: none"> - Structure and mandate of the UNHCR - Other organizations: IOM, ICRC, IRC - Humanitarian intervention in instances of forced migration <ul style="list-style-type: none"> ○ <i>Statute of the Office of the United Nations High Commissioner for Refugees</i>, GA Res. 832, UN GAOR, 9th Sess., Supp. No. 21, UN Doc. A/2890 (1954). http://www.unhcr.org/3b66c39e1.html ○ Corinne Lewis, “UNHCR’s Contribution to the Development of International Refugee Law: Its Foundations and Evolution”, (2005) 17 Int’l J. Refugee L. 67, pp. 67-90. ○ Barbara Harrell-Bond, “Can Humanitarian Work with Refugees be Humane?” (2002) 24 Hum. Rts. Q. 51. http://repository.forcedmigration.org/show_metadata.jsp?pid=fmo:4941
Persons of Concern	
<p>Week 9 – March 6st</p> <p>Refugee Communities</p>	<ul style="list-style-type: none"> - Protracted refugee situations - Refugee warehousing - Urban refugees - Refugee camps and settlements - Women, the elderly, children, unaccompanied children <ul style="list-style-type: none"> ○ <i>State of the World’s Refugees 2006: Chapter 5 – Protracted refugee situations: the search for practical solutions</i> http://www.unhcr.org/4444afcb0.html ○ Edith Bowles, <i>From village to camp: refugee camp life in transition on the Thailand-Burma Border</i>. http://www.fmreview.org/FMRpdfs/FMR02/fmr203.pdf

	<ul style="list-style-type: none"> Ekuru Aukot, “<i>It Is Better to Be a Refugee Than a Turkana in Kakuma</i>”: <i>Revisiting the Relationship between Hosts and Refugees in Kenya</i>. http://www.en.refugeelawreader.org/index.php?option=com_content&view=article&id=125&Itemid=176 Caroline Moorehead, <i>Human Cargo: A Journey Among Refugees</i>, New York: Picador, 2005, pp. 3-27.
Week 10 – March 13 th Statelessness	<ul style="list-style-type: none"> Causes and consequences of statelessness International protection regime <ul style="list-style-type: none"> Hannah Arendt, “The Decline of the Nation-State and the End of the Rights of Man” from <i>The Origins of Totalitarianism</i>. Harvest Books, 1973. Pp. 267-302. M. Lynch (Refugees International), <i>Lives on Hold: The Human Cost of Statelessness</i> http://www.refugeesinternational.org/sites/default/files/LivesonHold.pdf
Week 11 – March 20 th Internally Displaced Persons	<ul style="list-style-type: none"> International protection of internally displaced persons <ul style="list-style-type: none"> Nils Geissler, “The International Protection of Internally Displaced Persons”, (1999) 11 Int’l J. Refugee L. 451, pp. 451-478. <i>Report of the Representative of the Secretary-General [...] Guiding Principles on Internal Displacement (11 February 1998)</i> – http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/d2e008c61b70263ec125661e0036f36e?Opendocument
Week 12 – March 27 nd Smuggling and Trafficking of Migrants	<ul style="list-style-type: none"> Differentiation between smuggling and trafficking Link between smuggling, trafficking and forced migration <ul style="list-style-type: none"> Claire Brolan, “An Analysis of the Human Smuggling Trade and the <i>Protocol Against the Smuggling of Migrants by Land, Air and Sea (2000)</i> from a Refugee Protection Perspective, (2002) 14 Int’l J. Refugee L. 561, pp. 561- 596. Anne Gallagher, <i>Forced Migration Review, 12(January 2002) – Dilemmas of Development-Induced Displacement – Trafficking, Smuggling and Human Rights: tricks and treaties</i>, (pp. 25-28). http://www.fmreview.org/FMRpdfs/FMR12/fmr12full.pdf News articles posted on WebCT
Responses to Forced Migration	
Week 13 – April 3 rd Durable Solutions and Beyond FINAL PAPER DUE IN CLASS	<ul style="list-style-type: none"> Local integration Resettlement Repatriation <ul style="list-style-type: none"> B.S. Chimni, <i>From Resettlement to Involuntary Repatriation: towards a critical history of durable solutions to refugee problems</i>, http://repository.forcedmigration.org/show_metadata.jsp?pid=fmo:2459 <p>Guy S. Goodwin-Gill and Jane McAdam, <i>The Refugee in International Law</i> (Third Edition), (Oxford: Oxford University Press, 2007), pp. 489-501.</p>